IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.30 OF 2006

M/s.Pioneer Fasteners Petitioners

versus

Ashish Anant Apte Respondent

Mr.A.Y.Sakhare with J.S.Kini for petitioners.

Mr.P.S.Dani for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 9th January 2006

PC :

1. Heard Shri Sakhare, learned Senior Counsel for the petitioner and Shri Dani for respondent. The petitioner who has filed a proceeding for eviction of respondent from the premises, had applied in the suit filed by him, for an interim injunction restraining the respondent-defendant from alienating the suit property and/or creating third party rights in the same in any manner. The Trial Court while so restraining had also imposed a condition on the respondent- defendant that in case he wants to carry on the

manufacturing activity from the suit premises he should obtain licence from the authorities in accordance with law. In appeal to challenge this interlocutory order, the Lower Appellate Court has, at the instance of respondent, modified the order and stayed the condition pertaining to obtaining of licence.

2. Shri Dani after taking instructions from the respondent who is present in the Court makes a statement that despite stay of the condition of obtaining licence by the Lower Appellate Court, the respondent would not carry on any manufacturing activity until the Lower Appellate Court decides the appeal preferred by the respondent on merits and in accordance with law.

3. In the light of this statement of Shri Dani, Shri Sakhare does not press this petition. Needless to state that statement of Shri Dani is without prejudice to the rights and contentions of respondent in the pending appeal and the Lower Appellate Court shall proceed to decide the said appeal on merits in accordance with law. The statement of Shri Dani will not also prejudice the petitioner from raising appropriate contentions. Petition disposed of.

4. The Lower Appellate Court, considering the fact that it is hearing an appeal arising out of an interlocutory order, should endeavour to dispose of the pending appeal within a period of three weeks from the date of receipt of a copy of this order.

(S.C.DHARMADHIKARI, J.)